

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 302

Introduced by Assembly Member Chan
(Coauthors: Assembly Members Lieber, Pavely, and Steinberg)

February 6, 2003

An act to add Chapter 10 (commencing with Section 108920) to Part 3 of Division 104 of the Health and Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 302, as amended, Chan. Polybrominated ~~biphenyl~~ *diphenyl* ether.

Existing law, the California Hazardous Substances Act, prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, of any package of a misbranded hazardous substance or banned hazardous substance.

This bill would require ~~the California Environmental Protection Agency, on or before March 1, 2005, to adopt regulations to require a~~ PBDE manufacturer *on and after March 1, 2005, to mark any product all products* containing polybrominated ~~biphenyl~~ *diphenyl* ether (PBDE) with a clear and adequate warning and instructions with respect to the products processing, distribution in commerce, use, or disposal of the product *specified label*. The bill would prohibit, on and after January 1, 2006, ~~any~~ a person from manufacturing, processing, or distributing in commerce ~~any~~ a product containing PBDE, ~~except as specified.~~

~~The bill would require a PBDE manufacturer to pay an unspecified fee for every gallon of PBDE sold and delivered in a single transaction in an amount of 2 or more gallons and would require the fee to be paid to the State Board of Equalization. The bill would authorize the State Board of Equalization to adopt regulations to carry out the collection of the fee. The bill would require the State Board of Equalization to deposit the fees into the PBDE Prevention Fund, which the bill would create in the State Treasury. The bill would authorize the agency to expend the money in the fund, upon appropriation by the Legislature, to implement and enforce the requirements of the bill and to pay for the administrative costs of the State Board of Equalization in collecting the fee imposed by the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 10 (commencing with Section 108920)
2 is added to Part 3 of Division 104 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 10. POLYBROMINATED ~~BIPHENYL~~ *DIPHENYL* ETHERS
6

7 108920. The Legislature finds and declares all of the
8 following:

9 (a) Chemicals known as brominated flame retardants (BFRs)
10 are widely used in California. To meet stringent fire standards,
11 manufacturers add BFRs to a multitude of products, including
12 plastic housing of electronics and computers, circuit boards, and
13 the foam and textiles used in furniture.

14 (b) Polybrominated ~~biphenyl~~ *diphenyl* ether (PBDE), which is
15 a subcategory of BFRs, have increased 40 fold in human breast
16 milk since the 1970s. Women in California carry more PBDEs in
17 their bodies than anyone else studied in the world.

18 (c) PBDE has the potential to disrupt thyroid hormone balance
19 and contribute to a variety of developmental deficits, including
20 low intelligence and learning disabilities. PBDE may also have the
21 potential to cause cancer.

22 (d) Substantial efforts to eliminate BFRs from products have
23 been made throughout the world, including private and public



sectors. These efforts have made available numerous alternatives safe to human health while meeting stringent fire standards. To meet market demand, it is in the interest of California manufacturers to eliminate the use of BFRs.

(e) In order to protect the public health and the environment, the Legislature believes it is necessary for the state to develop a precautionary approach regarding the production, use, storage, and disposal of products containing brominated fire retardants.

108921. For purposes of this chapter, the following definitions apply:

~~(a) "Agency" means the California Environmental Protection Agency.~~

~~(b) "Fund" means the PBDE Prevention Fund established pursuant to Section 108926.~~

~~(c) "PBDE" means polybrominated biphenyl ether.~~

~~(d)~~

(a) "PBDE" means polybrominated diphenyl ether.

(b) "PBDE manufacturer" means any person who produces or imports into the state any product that contains PBDE.

~~108922. (a) On or before March 1, 2005, the agency shall adopt regulations to require a PBDE manufacturer to mark any product that contains PBDE with a clear and adequate warning and instructions with respect to the product's processing, distribution in commerce, use, or disposal, or with respect to any combination of these activities.~~

~~(b) Except as provided under subdivision (c), on and after 108992. (a) On and after March 1, 2005, a PBDE manufacturer shall mark all product that contains PBDE with a label that reads as follows:~~

~~This product contains polybrominated diphenyl ethers (PBDEs), chemicals that can bioaccumulate in people's bodies and cross the placenta. Exposure to PBDEs may have the potential to impair proper brain development.~~

(b) On and after January 1, 2006, no person may manufacture, process, or distribute in commerce any product containing any amount of PBDE.

~~(c) The agency may adopt regulations to authorize the manufacture, processing, distribution in commerce, or use, or any combination of these activities, of any product containing PBDE if the agency finds both of the following:~~

~~(1) An unreasonable risk of injury to the public health or the environment would not result.~~

~~(2) Good faith efforts have been made to develop a chemical substance that does not present an unreasonable risk of injury to the public health or the environment and that may be substituted for PBDE.~~

~~108923.—This chapter does not limit the authority of any state agency, under any other provision of this chapter or any other state law, to take action respecting PBDE.~~

~~108924.—(a) Every PBDE manufacturer shall pay a fee of _____ dollars (\$_____) per gallon for every gallon of PBDE sold and delivered in a single transaction in an amount of two or more gallons. The fee shall be paid to the State Board of Equalization on a quarterly schedule pursuant to this article.~~

~~(b) No charge shall be required for PBDE for which a payment has already been made to the State Board of Equalization pursuant to this section.~~

~~108925.—(a) The State Board of Equalization may adopt regulations to carry out Section 108924, including, but not limited to, regulations governing collections, reporting, refunds, and appeals.~~

~~(b) The State Board of Equalization shall collect the fee imposed by Section 108924 commencing on the first day of the first calendar quarter that begins on April 1, 2004.~~

~~(c) The State Board of Equalization shall deposit all fees collected pursuant to this article in the PBDE Prevention Fund.~~

~~108926.—(a) The PBDE Prevention Fund is hereby created in the State Treasury. The agency may expend the money in the fund, upon appropriation by the Legislature, for the purposes specified in subdivision (c).~~

~~(b) All of the following amounts shall be deposited in the fund:~~

~~(1) Money appropriated by the Legislature for deposit in the fund.~~

~~(2) The fees, interest, and penalties collected pursuant to Section 108925.~~

~~(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.~~

~~(c) The agency may expend the money in the fund for all the following purposes:~~

- 1 ~~(1) To pay for the costs of implementing and enforcing this~~
- 2 ~~chapter.~~
- 3 ~~(2) To pay for the administrative costs of the State Board of~~
- 4 ~~Equalization in collecting the fee imposed by Section 108925.~~

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